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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 LATWAHN MCELROY,) Case No.: 1:20-cv-00658-SAB (PC)
12 Plaintiff,)
13 v.) ORDER DENYING, WITHOUT PREJUDICE,
14 GOMEZ, et al.,) PLAINTIFF'S MOTION FOR APPOINTMENT OF
15 Defendants.) COUNSEL
16) [ECF No. 9]
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18 Plaintiff Latwahn McElroy is proceeding *pro se* and *in forma pauperis* in this civil rights
19 action pursuant to 42 U.S.C. § 1983.

20 Currently before the Court is Plaintiff's motion for appointment of counsel, filed on June 11,
21 2020.

22 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
23 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent
24 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
25 District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court
26 may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at
27 1525.
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1 Without a reasonable method of securing and compensating counsel, the court will seek
2 volunteer counsel only in the most serious and exceptional cases. In determining whether
3 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
5 legal issues involved.” Id. (internal quotation marks and citations omitted).

6 The test for exceptional circumstances requires the Court to evaluate the Plaintiff’s likelihood
7 of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the
8 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.
9 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Even if it assumed that Plaintiff is not
10 well versed in the law and that he has made serious allegations which, if proved, would entitle him to
11 relief, his case is not exceptional. The Court is faced with similar cases almost daily. While the Court
12 recognizes that Plaintiff is at a disadvantage due to his pro se status and his incarceration, the test is
13 not whether Plaintiff would benefit from the appointment of counsel. See Wilborn v. Escalderon, 789
14 F.2d 1328, 1331 (9th Cir. 1986) (“Most actions require development of further facts during litigation
15 and a pro se litigant will seldom be in a position to investigate easily the facts necessary to support the
16 case.”) Circumstances common to most prisoners, such as lack of legal education and limited law
17 library access, do not establish exceptional circumstances that would warrant a request for voluntary
18 assistance of counsel. In the present case, the Court has screened Plaintiff’s complaint and found that
19 he failed to state a cognizable claim for relief. Therefore, the Court cannot find that there is a
20 likelihood of success on the merits. Accordingly, Plaintiff’s motion for appointment of counsel is
21 DENIED without prejudice.

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23 IT IS SO ORDERED.

24 Dated: June 12, 2020


UNITED STATES MAGISTRATE JUDGE